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MEMORANDUM

Management Services Memo No. 09-046

DATE: JANUARY 5, 2009

TO: MAYOR & COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER
RICH DLUGAS, ASSISTANT CITY MANAGER RD
DENNIS STRACHOTA, MANAGEMENT SERVICES DIRECTOR

FROM: ROBERT COMBS, PURCHASING AND MATERIALS MANAGER *Robert Combs*

SUBJECT: ADDITIONAL INFORMATION - AGENDA NO. 8

As background on the proposed purchasing ordinance, Ordinance No. 4119, attached is a table which breaks down Council memos related to contracts for the period August 2007 through November 2008 into the categories of goods and services, consultant services and professional services. The dollar range of each type of purchase is shown from \$30,000 to \$50,000, \$50,000 to \$100,000 and above \$100,000.

Of the 245 memos from August 2007 through November 2008, 232 were for goods and services, 7 for consultants and 6 for professional services.

c: Rick Heumann, Councilmember Elect
Jack Seller, Councilmember Elect
Pat McDermott, Assistant City Manager



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MEMORANDUM

Management Services Memo No. 09-039

DATE: JANUARY 5, 2009

TO: MAYOR AND COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER *WMP*
RICH DLUGAS, ASSISTANT CITY MANAGER *RD*
DENNIS STRACHOTA, MANAGEMENT SERVICES DIRECTOR *DS*

FROM: ROBERT COMBS, PURCHASING AND MATERIALS MANAGER *Robert Combs*

SUBJECT: INTRODUCTION OF ORDINANCE NO. 4119, AMENDING SECTIONS 3-9 AND 3-11 CHAPTER 3 OF THE CHANDLER CITY CODE RELATING TO REQUIREMENTS FOR COMPETITIVE PROCUREMENT AND COUNCIL APPROVAL OF CONTRACTS

RECOMMENDATION: Staff recommends introduction of Ordinance No. 4119 amending Sections 3-9 and 3-11 Chapter 3 of the Chandler City Code relating to requirements for competitive procurement and Council approval of contracts.

BACKGROUND: Following the award of an RFP in January 2007, the National Institute of Government Purchasing (NIGP) conducted an operational assessment of the Purchasing Division. After thorough review by the HPO Purchasing Transformation Group and Executive Leadership Team it is recommended that the requirement for the contract amount requiring Council authorization be increased from \$30,000 to \$50,000 for goods and services.

In response to concerns raised at the last Council meeting, the contract amount requiring Council authorization for acquisition of consultant services will remain at \$30,000. This is reflected in the proposed ordinance, along with a definition of consultant services.

With this change, Council would continue to review 90% of purchasing expenditures although one third of formal solicitations are under \$50,000. Increasing the threshold for solicitations and contract authorizations would decrease the bid processing time and lead-time for contracts, reduce administrative costs and speed deliverables to customers.

MS Memo No. 09-000

12/26/2008

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FINANCIAL IMPLICATIONS: Although there are no direct financial implications this would streamline efficiencies, freeing staff time for other tasks, and reduce administrative costs.

PROPOSED MOTION: Move to introduce Ordinance No. 4119 amending Sections 3-9 and 3-11 Chapter 3 of the Chandler City Code relating to requirements for competitive procurement and Council approval of contracts and authorize the Mayor to execute all necessary documents.

c: Rick Heumann, Councilmember Elect
Jack Sellers, Councilmember Elect
Pat McDermott, Assistant City Manager

Attachment: Ordinance No. 4119

ORDINANCE NO. 4119

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AMENDING SECTIONS 3-9 AND 3-11 CHAPTER 3 OF THE CHANDLER CITY CODE RELATING TO REQUIREMENTS FOR COMPETITIVE PROCUREMENT AND COUNCIL APPROVAL OF CONTRACTS

BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

SECTION 1: That Section 3-9 of Chapter 3 of the Code of the City of Chandler is hereby amended to read as follows:

Sec. 3-9. Approval of City Council.

3-9.1. Purchases and miscellaneous agreements.

- A. All agreements or contracts for the sale or purchase of any interest in real property require prior Council approval.
- B. Contracts or agreements for a single purchase or a group of purchases of like items, sales, leases, rentals, contracts for services and equipment and any other agreement or contract shall not exceed a total of ~~thirty-fifty~~ thousand dollars (\$~~350~~,000.00) unless first approved by Council action, with the exceptions listed herein below.
- C. Any amendment or change order to such an agreement or contract which causes the total value of the agreement or contract to exceed ~~thirty-fifty~~ thousand dollars (\$~~350~~,000.00) requires prior Council approval.
- D. Any amendment or change order to such an agreement or contract previously approved by Council action which causes the total accumulated amount of amendments or change orders to exceed ten (10) percent of the agreement or contract amount originally approved by Council action requires prior Council approval. Thereafter, any further accumulated amount of amendments or change orders in excess of ten (10) percent shall require City Council approval.
- E. No prior Council approval is necessary for the purchase of bulk gasoline for both airport and public works inventory.
- F. All agreements for consultants which are not construction related which exceed thirty thousand dollars (\$30,000) require prior Council

approval. Consulting Agreements are agreements that the City enters into which provide advice or opinion relating to any matter whether professional or non-professional services including but not limited to service of an advisory nature to support policy development, decision-making, administration, or management of the government, normally provided by persons and/or organizations considered to have prerequisite knowledge or special abilities not generally available in the government.

3-9.2. Construction of buildings and structures.

- A. No contract or agreement for construction of a building or structure or for additions to or alterations of existing buildings or structures shall exceed a total value of fifty thousand dollars (\$50,000.00) unless first approved by Council action.
- B. Except for a financial necessity determined pursuant to subparagraph C. below, any amendment or change order to an agreement or contract for such construction services previously approved by Council action which causes the total accumulated amount of amendments and change orders to exceed ten (10) percent of the agreement or contract amount originally approved by Council action, or to exceed fifty thousand dollars (\$50,000.00), requires prior Council approval; thereafter, any further accumulated amount of amendments or change orders in excess of ten (10) percent, or in excess of fifty thousand dollars (\$50,000.00), requires prior Council approval. Council may accept a report of staff approved change orders and such acceptance shall authorize the Department Director or designee to approve additional change orders of ten (10) percent of the contract amount but not in excess of fifty thousand dollars (\$50,000.00).
- C. If the City Manager or Assistant City Manager, upon written recommendation of a Department Director or designee, makes a finding that a change order, which would otherwise require Council approval under subparagraph B. above, requires immediate approval to prevent an undue financial burden to the City, then the City Manager or Assistant City Manager may approve said change order. A report of any such financial necessity change order shall be made to the City Council within five (5) working days and such report shall be placed on a Council study session agenda as an informational item within twenty (20) working days.

3-9.3. Professional services. The procurement of services from professional classifications shall not exceed a total value of thirty thousand dollars (\$30,000.00) unless first approved by Council action. Any amendment to an agreement that causes

the total value of the agreement to exceed thirty thousand dollars (\$30,000.00) requires prior Council approval. Any amendment to an agreement previously approved by Council action that causes the total accumulated amount of amendments to exceed ten (10) percent of the agreement amount originally approved by Council action requires prior Council approval; thereafter, any further accumulated amount of amendments in excess of ten (10) percent require City Council approval.

3-9.4. Alternative project delivery contracts. No Design/Build Contract nor Construction Manager at Risk Contract shall exceed a total value of fifty thousand dollars (\$50,000.00) unless first approved by Council action. All Job Order Contracts require prior Council approval, however, only those work orders and Project Agreements which exceed fifty thousand (\$50,000.00) require prior Council approval.

SECTION 2. That Section 3-11 of Chapter 3 of the Chandler City Code is hereby amended to read as follows:

3-11. Procurement procedures.

3-11.1. All contracts for the purchase of services, supplies, materials and equipment estimated to cost in excess of ~~thirty-fifty~~ thousand dollars (~~\$350,000.00~~) shall be procured through an open competitive process in which qualifications, quality, value, cost and/or other benefits to the City are considered as the basis for selecting the provider. Contracts shall be awarded to that provider which, considering all circumstances appears to be in the best interest of the City.

Contracts for the purchase of services, supplies, materials and equipment estimated to cost less than ~~thirty-fifty~~ thousand dollars (~~\$350,000.00~~), but for more than five thousand dollars (\$5,000.00), may be procured through an open market quotation procedure established by the City Manager/designee. Contracts for five thousand dollars (\$5,000.00) or less may be procured in a manner best serving the interest of the City.

3-11.2. All contracts for construction of public improvements shall be awarded in accordance with the requirements of State law. Contract for Construction of public improvements for more than that amounts established in accordance with A.R.S. 34-201(c) shall either be competitively bid and awarded to the lowest responsible bidder or awarded based on qualifications in accordance with the procedures established in A.R.S. Title 34 for alternate contracting. In accordance with said Title 34, the limit for individual job orders is two million dollars (\$2,000,000.00). Contracts for less the amounts established in A.R.S. 34-201(c) may be awarded in the manner established herein above in Section 3-1.1.

3-11.3. All sales of personal property valued in excess of ~~thirty-fifty~~ thousand dollars (~~\$350,000.00~~) shall be to the highest bidder with the terms best serving the needs of the City.

3-11.4. Procedures for competitive bidding. The City Manager/designee shall establish bidding procedures which shall at a minimum include the following:

- A. A notice inviting bids shall be sent to prospective bidders who are listed on the bidders lists kept by the City in accordance with the City's procurement procedures. The notice inviting bids shall advise where prospective bidders can obtain a bid package, which will include specifications, and all contractual terms and conditions applicable to the purchase or project.
- B. Such notice inviting bids shall be published a minimum of, if not more than, fourteen (14) calendar days before the bid due date. Notice shall be by publication at least once in a newspaper of general circulation printed and published in the City, by posting on a public bulletin board in the purchasing office or other designated public bulletin board.
- C. Such notice inviting bids shall identify the place, date and time of the bid due date and of the bid opening date.
- D. The bid due date for construction contracts shall be at least twenty-four (24) hours before the bid opening date. The bid opening date and time shall be scheduled for the next workday after the bid due date. The difference between the bid due date and time and the bid opening date and time is to allow bidders to review the accuracy of their bids, and if they have made a mathematical or clerical error, the opportunity to withdraw their bids prior to the bid opening. Bidders requesting to withdraw their bids must contact the contact person specified in the City's bid documents prior to the bid opening. No bids will be allowed to be modified after the bid opening. Bidders that withdrew their bids after the bid opening shall be deemed non-responsible bidders and shall not be considered for future City projects for a period of two (2) years and will also be subject to a claim against their bid bond.
- E. A bid is late if it is received at the location designated in the invitation for bids after the time and date set for the bid due date. A late bid shall be rejected and not considered, regardless of the reason for lateness, including circumstances beyond the control of the bidder. A late bid shall not be opened, except (if necessary) for identification purposes but shall be returned to the bidder.
- F. Bids shall be opened and read aloud at an open public meeting at the time and place designated in the invitation for bids.

3-11.5. Procedures for awards based on qualifications. The City Manager/designee shall establish procedures to award contracts based on qualifications in accordance with State law requirements.

INTRODUCED AND TENTATIVELY APPROVED by the City Council of the City of Chandler, Arizona, this ____ day of _____, 2008.

ATTEST:

CITY CLERK

MAYOR

PASSES AND ADOPTED by the City Council of the City of Chandler, Arizona, this ____ day of _____, 2008.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 4119 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the ____ day of _____, 2008, and that a quorum was present thereat.

PUBLISHED

CITY CLERK

APPROVED AS TO FORM:

MARY WADE, CITY ATTORNEY

